



HOUSE USE ONLY

CHAIR:

WITH / WITHOUT

3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
67 ELIZABETH II, 2018

(Bill No. 42)

**Eric Donovan Act (An Act to Amend the Occupational
Health and Safety Act)**

Hon. Sonny (Stanley) Gallant
Minister of Workforce and Advanced Learning

GOVERNMENT BILL

Carol Mayne
Acting Queen's Printer
Charlottetown, Prince Edward Island



ERIC DONOVAN ACT (AN ACT TO AMEND THE OCCUPATIONAL HEALTH AND SAFETY ACT)

BILL NO. 42

2018

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 2 of the *Occupational Health and Safety Act* R.S.P.E.I. 1988, Cap. O-1.01, is amended by the addition of the words “or psychological” after the words “and physical”.

2. Section 8 of the Act is amended by the addition of the following after subsection (5):

Exception

(5.1) Subsection (5) does not apply to an order in relation to an occurrence of workplace harassment that contains

- (a) individually identifying information about a worker or other person in the workplace; or
- (b) other personal information, as defined in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01, about a worker or other person in the workplace.

3. Section 12 of the Act is amended by the addition of the following after subsection (2):

Duty respecting workplace harassment

(3) An employer shall establish and implement as a policy, in accordance with the regulations, measures to prevent and investigate occurrences of harassment in the workplace.

4. (1) Clause 16(1)(f) of the Act is amended by the addition of the words “and any policy or program established by an employer pursuant to this Act or the regulations” after the words “comply with this Act and the regulations”.

(2) Section 16 of the Act is amended by the addition of the following after subsection (2):

Application of clause (2)(b)

(3) Clause (2)(b) does not apply in respect of a complaint of harassment in the workplace.

5. **Section 23 of the Act is amended by the addition of the following after subsection (4):**
- Results not a report**
- (5) The results of a workplace harassment investigation do not constitute a report for the purposes of clause (3)(h).
6. **Subsection 25(7) of the Act is amended**
- (a) **in clause (b), by the addition of the words “, other than a complaint of workplace harassment” after the words “occupational health and safety”; and**
- (b) **in clause (c), by the addition of the words “, other than an investigation of a complaint of workplace harassment” after the words “workers in the workplace”.**
7. **Subsection 26(6) of the Act is amended**
- (a) **in clause (b), by the addition of the words “, other than a complaint of workplace harassment” after the words “occupational health and safety”; and**
- (b) **in clause (c), by the addition of the words “, other than an investigation of a complaint of workplace harassment” after the words “workers in the workplace”.**
8. **Subsection 46(1) of the Act is amended**
- (a) **by the addition of the following after clause (j):**
- (j.1) respecting measures that employers shall establish and implement to prevent and investigate harassment in the workplace;
- (b) **by the addition of the following after clause (bb):**
- (bb.1) defining terms used but not defined in this Act;
9. **This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.**



EXPLANATORY NOTES

SECTION 1 amends section 2 of the *Occupational Health and Safety Act* R.S.P.E.I. 1988, Cap. O-1.01, to include securing workers and self-employed persons from risks to their psychological well-being arising out of, or in connection with, activities in the workplace as a purpose of the Act.

SECTION 2 amends section 8 of the Act to add a new subsection (5.1) that creates an exception to the requirement for the posting of an order in relation to an occurrence of workplace harassment that contains individually identifying information about a worker or other person or other personal information.

SECTION 3 amends section 12 of the Act to add a new subsection (3) that makes it a duty of an employer to establish and implement as a policy, in accordance with the regulations, measures to prevent and investigate occurrences of harassment in the workplace.

SECTION 4 amends clause 16(1)(f) of the Act to add wording that requires a worker, while at work, to comply with any policy or program established by an employer pursuant to this Act or the regulations, in addition to the current requirement in that clause to comply with the Act and regulations. The section also clarifies that clause 16(2)(b) does not apply in respect of a complaint of workplace harassment.

SECTION 5 amends section 23 of the Act by adding a new subsection (5) to clarify that the results of a workplace harassment investigation do not constitute a report that an employer is required to include as part of the occupational health and safety program for the workplace pursuant to clause 23(3)(h).

SECTION 6 amends clauses 25(7)(b) and (c) of the Act to clarify that it is not a duty of the committee under those clauses to receive, investigate or deal with, or to participate in an investigation respecting, complaints of workplace harassment.

SECTION 7 amends clauses 26(6)(b) and (c) of the Act to clarify that it is not a duty of a representative under those clauses to receive, investigate or deal with, or to participate in an investigation respecting, complaints of workplace harassment.

SECTION 8 amends subsection 46(1) of the Act to add a new clause (j.1) that authorizes regulations to be made respecting measures that employers shall establish and implement to prevent and investigate incidents of harassment in the workplace, and a new clause (bb.1) that authorizes the regulations to define terms used but not defined in the Act.

SECTION 9 provides for the commencement of the Act.

(Bill No. 42)

**Eric Donovan Act (An Act to Amend the
Occupational Health and Safety Act)**

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 13, 2018
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. Sonny (Stanley) Gallant
Minister of Workforce and Advanced Learning

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